

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:17-CV-00461-FDW-DSC**

INEZ ANNETTE ALBRIGHT,

Plaintiff,

v.

**CHARLOTTE-MECKLENBURG
BOARD OF EDUCATION, ERIC
WARD, CHAUNEL JOHNSON AND
AVERY MITCHELL,**

Defendants.

ORDER

THIS MATTER is before the Court on “Defendants’ Motion to Dismiss Plaintiff’s Amended Complaint” (document #4) and Plaintiff’s “Motion for Leave to File Second Amended Complaint” (document #7). This matter was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1).

Rule 15 of the Federal Rules of Civil Procedure governs amendments to pleadings. Rule 15(a)(1) grants a party the right to “amend its pleading once as a matter of course,” if done within twenty-one (21) days after serving the pleading, Fed. R. Civ. P. 15(a)(1)(A), or, “if the pleading is one to which a responsive pleading is required,” a party may amend once as a matter of course, provided that it does so within “21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.” Fed. R. Civ. P. 15(a)(1)(B). The Rule further provides that in “all other cases, a party may amend its pleading only with the

opposing party's written consent or the court's leave. The court should freely give leave when justice so requires." Fed.R.Civ.P. 15(a)(2).

Defendants filed their Motion to Dismiss on August 31, 2017. On September 14, 2017, Plaintiff filed her "Motion for Leave to File Second Amended Complaint" (document #7). Plaintiff stated in her Motion that her "[c]ounsel read Rule 15(a)(1)(B) to allow Plaintiff to file this amendment as a matter of course since it is the first amendment after removal of the case to this Court and is in response to a motion to dismiss." However, because Plaintiff had amended her Complaint in state court prior to removal, she also sought leave to amend under Rule 15(a)(2). On September 20, 2017, Defendants filed "Defendants' Response to Plaintiff's Motion for Leave to File Second Amended Complaint" (document #8). Defendants stated that they did not oppose Plaintiff's Motion.

Since Defendants consent to Plaintiff amending her Complaint, the Court will grant the Motion.

It is well settled that an amended pleading supersedes the original pleading, and that motions directed at superseded pleadings are to be denied as moot. Young v. City of Mount Ranier, 238 F. 3d 567, 573 (4th Cir. 2001) (amended pleading renders original pleading of no effect); Turner v. Kight, 192 F. Supp. 2d 391, 397 (D. Md. 2002) (denying as moot motion to dismiss original complaint on grounds that amended complaint superseded original complaint).

IT IS HEREBY ORDERED that:

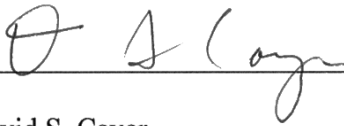
1. Plaintiff's "Motion for Leave to File Second Amended Complaint" (document #7) is **GRANTED**. Plaintiff shall file her Second Amended Complaint within seven (7) days of this Order.

2. “Defendants’ Motion to Dismiss Plaintiff’s Amended Complaint” (document #4) is administratively **DENIED** as moot without prejudice.

3. The Clerk is directed to send copies of this Order to counsel for the parties, including but not limited to moving counsel; and to the Honorable Frank D. Whitney.

SO ORDERED.

Signed: September 26, 2017



David S. Cayer
United States Magistrate Judge

